Chapter 13: Probation Violations in Cases Involving a Juvenile Disposition

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In this chapter. . .

The rules in this chapter govern probation violations in delinquency cases, in minor personal protection order cases in which a juvenile has been placed on probation following a violation of the personal protection order, MCL 712A.18(17) and MCR 3.989, and in designated case proceedings in which the court has imposed a juvenile disposition following conviction, MCL 712A.18(1)(n). The rules in this chapter do not govern probation violations in designated case proceedings in which the court has delayed imposition of an adult sentence or probation violations in "automatic waiver" cases (see Sections 22.5–22.7).

For discussion of the following related topics, see:

- Section 10.9(K) (probation revocation for failure to pay costs);
- Section 10.12(O) (probation revocation for failure to pay restitution);
- Section 3.7 (detaining or jailing juveniles);
- Section 2.12 (procedures governing contempt proceedings involving juveniles); and
- Section 14.4 (hearing requirements before moving a juvenile to a more restrictive placement).

Note on court rules. On February 4, 2003, the Michigan Supreme Court approved extensive amendments to Subchapter 5.900 of the Michigan Court Rules, which govern delinquency, minor PPO, designated case, and "traditional waiver" proceedings, and to Subchapter 6.900, which govern "automatic waiver" proceedings. Subchapter 5.900 was renumbered

Subchapter 3.900. These rule amendments are effective May 1, 2003. Although not in effect on the publication date of this benchbook, the rule amendments have been included here. For the rules in effect prior to May 1, 2003, see the first edition of this benchbook, *Juvenile Justice Benchbook:Delinquency & Criminal Proceedings* (MJI, 1998).

13.1 Due Process Requirements

Although probation violation hearings are summary and not subject to the same rules of pleading and evidence as apply to criminal trials, probationers are entitled to certain due process protections because of the potential loss of liberty. *People v Pillar,* 233 Mich App 267, 269 (1998). The particular due process protections applicable to probation revocation proceedings were set forth in *Gagnon v Scarpelli,* 411 US 778 (1973):

> "'(a) written notice of the claimed violations of (probation or) parole; (b) disclosure to the (probationer or) parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body. . . ; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking (probation or) parole.'" *Id.* at 786, quoting *Morrissey v Brewer,* 408 US 471, 486 (1972).

In determining the applicable standard of proof at a juvenile probation violation hearing, the Court of Appeals in *In re Belcher,* 143 Mich App 68, 71–72 (1985), cited *Gagnon* and noted that the "status of a juvenile probationer is analogous to that of an adult probationer." See also *In re Scruggs,* 134 Mich App 617, 621–22 (1984), where the Court of Appeals concluded that, as in cases involving adults, probation under MCL 712A.18 is a matter of grace, not a matter of right, and the court is free to revoke probation upon a finding of a violation of its terms. In this chapter, in the absence of case law prescribing the procedures required in juvenile probation violation proceedings, reference is made to case law involving adult probation violation proceedings.

13.2 Initiating Probation Violation Proceedings

MCR 3.944(A) sets forth the procedure for initiating probation violation proceedings. MCR 3.944(A)(1) states that the following options are available to initiate such proceedings:

"(A) Petition; Temporary Custody.

"(1) Upon receipt of a sworn supplemental petition alleging that the juvenile has violated any condition of probation, the court may:

(a) direct that the juvenile be notified pursuant to MCR 3.920 to appear for a hearing on the alleged violation, which notice must include a copy of the probation violation petition and a notice of the juvenile's rights as provided in subrule (C)(1)*; or

(b) order that the juvenile be apprehended and brought to the court for a detention hearing, which must be commenced within 24 hours after the juvenile has been taken into court custody, excluding Sundays and holidays as defined in MCR 8.110(D)(2)."

*See Section 13.4, below, for a list of these rights.

Issuance of summons or notice of hearing. MCR 3.944(A)(1)(a) provides for a notice to appear for a hearing pursuant to MCR 3.920 but does not specify whether a summons or notice of hearing must be used. Compare MCR 6.445(A)(1), which requires use of a summons rather than a notice of hearing in adult probation violation proceedings. Under the court rule applicable to juvenile proceedings, a summons may be issued and served on a petitioner or juvenile before any proceeding in "juvenile court." MCR 3.920(B)(1). Thus, a summons may be used to direct the juvenile to appear for a hearing on the alleged probation violation. If the juvenile is not in custody, at least 7 days' notice in writing or on record must be given to juvenile, custodial parent or guardian, or legal custodian, noncustodial parent who has requested notice at a hearing or in writing, guardian ad litem, attorney for juvenile, prosecuting attorney, and petitioner. A copy of the probation violation petition and notice of juvenile's rights must be provided. MCR 3.944(A)(1)(a), 3.920(C)(1) and 3.921(A)(1).*

*See Chapter 6 for a detailed discussion of the use of summonses and notice requirements.

Time requirements for initiating proceedings. If the Family Division has exercised jurisdiction over a juvenile for an offense that would be a criminal offense if committed by an adult or a status offense, the court may retain jurisdiction over the juvenile until age 19 or, for certain serious criminal offenses, the court may extend jurisdiction until age 21. MCL 712A.2a(1) and (2). In criminal cases, the sentencing court retains jurisdiction to revoke a probationer's probation if revocation proceedings are commenced within the probation period and are pending when the probation period expires. *People v Ritter,* 186 Mich App 701, 706 (1991). See also *People v Valentin,* 220 Mich App 401, 407 (1996), aff'd 457 Mich 1 (1998) (rule applied to a commitment review hearing in an "automatic waiver" proceeding). Revocation proceedings commence upon the court's issuance of a warrant or summons. See *Ritter, supra* at 708–09. When a probationer absconds from probationary supervision, the probation period is tolled from the time

an arrest warrant is issued until the time the probationer is returned to the court's supervision. *Id.* at 711–12.

Procedure for juveniles violating conditional release orders. MCR 3.945(D) provides that "[t]he procedures set forth in MCR 3.944 apply to juveniles committed under MCL 712A.18 who have allegedly violated a condition of release after being returned to the community on release from a public institution."

13.3 Issuing an Order to Apprehend a Juvenile and Conducting a Detention Hearing

Instead of issuing a summons directing a juvenile to appear for a hearing, the Family Division may issue an order to apprehend a juvenile and bring him or her before the court for a detention hearing. Like an arrest warrant for an adult, the Family Division's order may only issue upon probable cause and must specify the juvenile and the place where the juvenile may be found. MCL 712A.2c states as follows:

> "The court may issue an order authorizing a peace officer or other person designated by the court to apprehend a juvenile who . . . has violated probation . . . . The order shall set forth specifically the identity of the juvenile sought and the house, building, or other location or place where there is probable cause to believe the juvenile is to be found. A person who interferes with the lawful attempt to execute an order issued under this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both."

If the juvenile is detained, notice of the hearing may be given to the juvenile and his or her parent as soon as the hearing is scheduled, in person, in writing, on record, or by phone. MCR 3.920(C)(2)(a).

MCR 3.944(A)(2) contains instructions to an officer who apprehends a juvenile who has allegedly violated a probation condition. That rule, which contains instructions that are substantially similar to those governing apprehension following an offense by a juvenile, states as follows:

> "(2) When a juvenile is apprehended pursuant to court order as provided in subrule (A)(1)(b), the officer must:
>
> (a) forthwith take the juvenile
>
> (i) to the court for a detention hearing, or

> (ii) to the place designated by the court pending the scheduling of a detention hearing; and
>
> (b) notify the custodial parent, guardian, or legal custodian that the juvenile has been taken into custody, of the time and place of the detention hearing, if known, and of the need for the presence of the parent, guardian, or legal custodian at the detention hearing."

Detention hearings. MCR 3.944(B) sets forth the required procedures at a detention hearing. These procedures are similar to those required for a preliminary hearing. MCR 3.944(B) states in part that at a detention hearing:

> "(1) The court must determine whether a parent, guardian, or legal custodian has been notified and is present. If a parent, guardian, or legal custodian has been notified, but fails to appear, the detention hearing may be conducted without a parent, guardian, or legal custodian if a guardian ad litem or attorney appears with the juvenile.
>
> "(2) The court must provide the juvenile with a copy of the petition alleging probation violation.
>
> "(3) The court must read the petition to the juvenile, unless the attorney or the juvenile waives the reading.
>
> "(4) The court must advise the juvenile of the juvenile's rights as provided in subrule (C)(1) and of the possible dispositions.*
>
> "(5) The juvenile must be allowed an opportunity to deny or otherwise plead to the probation violation. If the juvenile wishes to admit the probation violation or plead no contest, the court must comply with subrule (D) before accepting the plea."

*See Section 13.4, below, for a list of these rights. Section 13.8, below, discusses possible dispositions following a finding of probation violation.

A juvenile may be detained without bond pending a probation violation hearing if the court finds probable cause to believe that the juvenile violated a condition of probation. MCR 3.944(B)(5)(b).

13.4 Advice of Rights in the Summons or at a Detention Hearing

In a notice to appear for a probation violation hearing or at the detention hearing, the juvenile must be provided a copy of the supplemental petition and advised of his or her rights. MCR 3.944(A)(1)(a) and 3.944(B)(2) and

(4). MCR 3.944(C)(1) list a juvenile's rights at a probation violation hearing. A juvenile has the right:

> "(a) the right to be present at the hearing,
>
> "(b) the right to an attorney pursuant to MCR 3.915(A)(1),*
>
> "(c) the right to have the petitioner prove the probation violation by a preponderance of the evidence,
>
> "(d) the right to have the court order any witnesses to appear at the hearing,
>
> "(e) the right to question witnesses against the juvenile,
>
> "(f) the right to remain silent and not have that silence used against the juvenile, and
>
> "(g) the right to testify at the hearing, if the juvenile wants to testify."

*See Section 5.7.

Notifying a juvenile of the right to a contested hearing. In criminal cases, the record must reflect that the probationer was made aware of his or her right to a contested hearing as an alternative to pleading guilty. *People v Ealey,* 411 Mich 987 (1981), and *People v Adams,* 411 Mich 1070 (1981), citing Judge Bronson's dissents in *People v Hooks,* 89 Mich App 124, 133–34 (1979), and *People v Darrell,* 72 Mich App 710, 714–16 (1976). Thus, the use of the terms "hearing" or "pending violation hearing" in a notice of violation or bench warrant does not alone sufficiently notify the probationer of the right to a contested hearing. There must be evidence in the record that the probationer was served with these documents or otherwise made aware of the right. *People v Stallworth,* 107 Mich App 754, 755 (1981).

The failure to explicitly tell an unrepresented probationer of his or her right to a contested hearing is error. *People v Radney,* 81 Mich App 301, 303 (1978), and *People v Brown,* 72 Mich App 7, 14 (1976). The Court of Appeals has held that use of the word "hearing" when asking whether the probationer wants appointed counsel is insufficient notice of the right to a contested hearing. *People v Moore,* 121 Mich App 452, 459 (1982).

13.5 Plea Procedures

MCR 3.944(D) sets forth the required procedures for accepting a plea of admission or no contest to an alleged probation violation. The required procedures are similar to those required for accepting a plea from a juvenile who has allegedly committed an offense, and the reader should consult

Chapter 8 for detailed discussion of the procedures listed below. MCR 3.944(D) states:

> **"(D) Pleas of Admission or No Contest.** If the juvenile wishes to admit the probation violation or plead no contest, before accepting the plea, the court must:
>
> (1) tell the juvenile the nature of the alleged probation violation;
>
> (2) tell the juvenile the possible dispositions;*
>
> (3) tell the juvenile that if the plea is accepted, the juvenile will not have a contested hearing of any kind, so the juvenile would give up the rights that the juvenile would have at a contested hearing, including the rights as provided in subrule (C)(1);*
>
> (4) confirm any plea agreement on the record;
>
> (5) ask the juvenile if any promises have been made beyond those in the plea agreement and whether anyone has threatened the juvenile;
>
> (6) establish support for a finding that the juvenile violated probation,
>
> (a) by questioning the juvenile or by other means when the plea is a plea of admission, or
>
> (b) by means other than questioning the juvenile when the juvenile pleads no contest. The court must also state why a plea of no contest is appropriate;
>
> (7) inquire of the parent, guardian, legal custodian, or guardian ad litem whether there is any reason why the court should not accept the juvenile's plea. Agreement or objection by the parent, guardian, legal custodian, or guardian ad litem to a plea of admission or no contest by a juvenile shall be placed on the record if the parent, guardian, legal custodian, or guardian ad litem is present; and
>
> (8) determine that the plea is accurately, voluntarily and understandingly made."

*See Section 13.8, below.

*See Section 13.4, above.

At a plea hearing, the court must specifically inform a probationer that, as an alternative to pleading guilty, he or she has the right to a hearing at which he or she will have the opportunity to contest the charges. Failure to so

inform the probationer requires reversal absent "direct and affirmative proof" that the probationer was aware of this right and that it would be waived by pleading guilty. *People v Edwards,* 125 Mich App 831, 833 (1983), and *People v Moore,* 121 Mich App 452, 457 (1983). Absent "direct and affirmative proof" that the probationer read a notice of violation containing notice of the right to a contested hearing, the probationer's receipt of such a notice does not constitute adequate advice of the right. *Edwards, supra* at 835. Notice of the right to a contested hearing as an alternative to pleading guilty is especially important when the probationer has waived the right to counsel. *People v Alame,* 129 Mich App 686, 690 (1983).

However, in criminal cases, advice of the right to a contested hearing is not required where the plea proceeding immediately follows an arraignment at which the probationer was fully advised of his right to a contested probation revocation hearing and the rights incident thereto. *People v Terrell,* 134 Mich App 19, 23 (1984). An arraignment in a criminal proceeding is the functional equivalent of a preliminary hearing in a juvenile delinquency proceeding. *In re Wilson,* 113 Mich App 113, 121 (1982).

13.6 Time Requirements for Probation Violation Hearings

If the juvenile denies the allegations or remains silent, the court must schedule a probation violation hearing, which must commence within 42 days after a detention hearing. If a probation violation hearing is not commenced within 42 days and the delay is not attributable to the juvenile, the juvenile must be released without bail. MCR 3.945(B)(5)(b).

See *In re Madison,* 142 Mich App 216, 222 (1985), citing *In re Scruggs,* 134 Mich App 617, 621 (1984) (a requirement under a previous court rule that the adjudicative phase be docketed *and heard* within 42 days after conclusion of a preliminary hearing did not apply to probation violation hearings, as jurisdiction has already been determined).

13.7 Procedures at Probation Violation Hearings

A probation violation hearing is a dispositional hearing, not an adjudicative hearing. A probation violation hearing is conducted to determine whether a juvenile violated a condition of probation, not whether a juvenile committed an underlying offense. *In re Scruggs,* 134 Mich App 617, 622 (1984). Nonetheless, a juvenile has rights—contained in applicable court rules and required by due process—at a probation violation hearing.

MCR 3.944(C)(1) lists a juvenile's rights at a probation violation hearing. A juvenile has a right:

> "(a) the right to be present at the hearing,

> "(b) the right to an attorney pursuant to MCR 3.915(A)(1),*
>
> "(c) the right to have the petitioner prove the probation violation by a preponderance of the evidence,
>
> "(d) the right to have the court order any witnesses to appear at the hearing,
>
> "(e) the right to question witnesses against the juvenile,
>
> "(f) the right to remain silent and not have that silence used against the juvenile, and
>
> "(g) the right to testify at the hearing, if the juvenile wants to testify."

*See Section 5.7.

In addition, MCR 3.944(C)(2) provides that the following procedural and substantive rules apply at a probation violation hearing:

- the Michigan Rules of Evidence, other than those with respect to privileges, do not apply at a probation violation hearing, and
- there is no right to a jury at a probation violation hearing.

"Neutral and detached hearing body," probation officers, and referees. Unless a party demanded a trial by judge or jury on the offense that led to placement of the juvenile on probation, a referee will have conducted the trial and the initial dispositional hearing. If a referee tries a case, that same referee may conduct a probation violation hearing even if the juvenile requests that a judge preside at such a hearing. MCR 3.913(B).

Many juvenile probation officers are also hearing referees. See MCL 712A.10(1), which allows a court to assign a juvenile probation officer or county agent as a referee. If the juvenile probation officer who submits a supplemental petition alleging a probation violation is a referee, he or she should not serve as factfinder at the hearing on the alleged violation. *Gagnon v Scarpelli,* 411 US 778, 786 (1973) held that a probationer is entitled to a "neutral and detached hearing body" as a matter of due process. "The 'neutral and detached hearing body' requirement is aimed at preventing revocation by one who was directly involved in bringing the charges against the defendant, such as a probation officer, or one who has personal knowledge of an event upon which the charge is based, such as a judge who orders revocation because of a failure to appear before him." *People v Nesbitt,* 86 Mich App 128, 139 (1978).

Appearance of prosecuting attorney. If the court requests, the prosecuting attorney must review the petition for legal sufficiency and appear at any delinquency proceeding. MCR 3.914(A) and MCL 712A.17(4). See also *People v Rocha (After Remand),* 99 Mich App 654, 656 (1980) ("where

probation proceedings are contested, it is preferable that the interrogation of the defendant be conducted by the prosecutor, so as to avoid the potential or the appearance of bias").

Violation of probation based on finding of responsibility for an offense. A juvenile may be found to have violated probation based upon a prior finding of responsibility for an offense at a plea or trial. MCR 3.944(C)(3). See also *In re Belcher,*143 Mich App 68, 69 (1985) (juvenile probationer violated condition of probation prohibiting subsequent violations of law). In a criminal case, probation may not be revoked solely on the basis that the probationer was arrested for an alleged new criminal offense. *People v Pillar,* 233 Mich App 267, 269–70 (1998). Nonetheless, because of different standards of proof in criminal or juvenile delinquency proceedings and probation revocation proceedings, a conviction or adjudication of a new offense is not a prerequisite for revocation of probation based on the conduct underlying that offense. *People v Buckner,* 103 Mich App 301, 303 (1980).

It is not necessary to delay a probation revocation hearing because proceedings involving the underlying offense against the probationer are pending and involve the same conduct for which revocation is sought. *People v Nesbitt,* 86 Mich App 128, 136 (1978). However, if a probation revocation hearing is conducted prior to a trial involving the same facts, the probationer's testimony at the hearing and any evidence derived from it are inadmissible—except for purposes of impeachment or rebuttal—against the probationer at the subsequent trial if a timely objection is made at that trial. *People v Rocha,* 86 Mich App 497, 512–13 (1978). The probationer must be advised before he takes the stand at the revocation hearing that his testimony and its fruits will not be admissible against him at the subsequent trial. *Id.* at 513.

"Because the standard of proof [in a probation revocation hearing] is lower than the reasonable doubt standard employed in a criminal trial, probation may be revoked before the trial on the substantive offense, and a decision to revoke probation will be valid even if the defendant is ultimately acquitted of the substantive crime." *People v Tebedo,* 107 Mich App 316, 321 (1981).

A probationer is not twice placed in jeopardy for the same criminal offense where the same criminal activity is the subject of both probation revocation and criminal proceedings. *People v Buelow,* 94 Mich App 46, 49 (1979). Because jeopardy does not attach at a probation revocation hearing, subsequent criminal proceedings do not violate double jeopardy prohibitions. *People v Johnson,* 191 Mich App 222, 226 (1991).

Constitutional limitations on use of evidence at probation revocation proceedings. The Michigan Court of Appeals has held that the privilege against self-incrimination contained in the federal and Michigan constitutions applies to probation revocation proceedings. Thus, a probationer cannot be compelled to testify against himself or herself at a probation revocation hearing. *People v Manser,* 172 Mich App 485, 488

(1988). Compare *Minnesota v Murphy,* 465 US 420, 435, n 7 (1984) ("Just as there is no right to a jury trial before probation may be revoked, neither is the privilege against compelled self-incrimination available to a probationer").

"[E]vidence of a defendant's failure to respond to an accusation of wrongdoing is inadmissible to prove guilt even if the defendant had, prior to his silence, waived his right to remain silent." *People v Staley,* 127 Mich App 38, 41–42 (1983), relying on *People v Bobo,* 390 Mich 355 (1973). This rule applies to probation revocation hearings. *Staley, supra.*

Involuntary confessions are inadmissible in probation revocation hearings. *Id.* at 43–44. However, statements made to a probation officer during an interview are admissible in revocation or subsequent criminal proceedings even absent *Miranda* warnings. *People v Hardenbrook,* 68 Mich App 640, 644–46 (1976), and *Murphy, supra* 465 US at 429–31. See also *Fare v Michael C,* 442 US 707, 717 n 4, 725 (1979) (assuming without deciding that *Miranda* applies to cases involving juveniles, a juvenile's request to speak with his probation officer did not constitute an invocation of the juvenile's rights to counsel and to remain silent), and *People v Anderson,* 209 Mich App 527, 530–35 (1995) (juvenile corrections officer is not a law enforcement officer for *Miranda* purposes).

In *People v Perry,* 201 Mich App 347 (1993), lv den 445 Mich 926 (1994), the Court of Appeals addressed the applicability of the exclusionary rule to probation revocation proceedings, but no majority opinion resulted. Fitzgerald, J, would have held that the exclusionary rule applies in probation revocation proceedings. *Id.* at 359. Shepherd, J, would have held that the exclusionary rule applies when the police know or have reason to know that "they were targeting a probationer." *Id.* at 351. Griffin, J, would have held that the exclusionary rule would apply to probation revocation where, examining the totality of the circumstances (1) the exclusion of the evidence would substantially further the deterrent purpose of the exclusionary rule, and (2) the need for deterrence would outweigh the harm to the probation system. *Id.* at 353. The United States Supreme Court has held that "the federal exclusionary rule does not bar the introduction at parole revocation hearings of evidence seized in violation of parolees' Fourth Amendment rights." *Pennsylvania Bd of Probation & Parole v Scott,* 524 US 357, 364 (1998).

Calling additional witnesses or ordering production of additional evidence. The court has authority to call or examine witnesses and to order production of additional evidence or witnesses. MCR 3.923(A)(1) states:

> "**(A) Additional Evidence.** If at any time the court believes that the evidence has not been fully developed, it may:
>
> (1) examine a witness,

> (2) call a witness, or
>
> (3) adjourn the matter before the court, and
>
> (a) cause service of process on additional witnesses, or
>
> (b) order production of other evidence."

See *In re Alton,* 203 Mich App 405, 407–08 (1994) (court properly allowed additional testimony that directly addressed key conflicts between the testimony of the complainant and juvenile).

Juvenile may not attack underlying order of disposition at probation violation proceeding. In a juvenile delinquency case, the juvenile may not attack the underlying order of disposition at a probation revocation hearing, and appeals following revocation of probation are limited to matters related to the revocation hearing. *In re Madison,* 142 Mich App 216, 219 (1985), relying on *People v Pickett,* 391 Mich 305, 316 (1974), and *People v Irving,* 116 Mich App 147, 150 (1982).

13.8 Dispositions Following a Finding of Probation Violation

*See Chapter 10 for a discussion of the rules governing dispositions.

If a court accepts a juvenile's plea of admission or no contest to a probation violation, or if the court finds a probation violation following a violation hearing, the court may modify the existing probation order or order any other disposition under MCL 712A.18 or 712A.18a. MCR 3.944(B)(5)(a) and 3.944(E)(1).

Supplemental orders of disposition. At any time while a juvenile is under the Family Division's jurisdiction, the court may terminate jurisdiction or amend or supplement a disposition order "within the authority granted to the court in [MCL 712A.18]." MCL 712A.19(1). MCR 3.943(E)(2) requires the court to consider imposing "graduated sanctions" upon a juvenile when making second and subsequent dispositions in delinquency cases." That rule states as follows:

> (2) In making second and subsequent dispositions in delinquency cases, the court must consider imposing increasingly severe sanctions, which may include imposing additional conditions of probation; extending the term of probation; imposing additional costs; ordering a juvenile who has been residing at home into an out-of-home placement; ordering a more restrictive placement; ordering state wardship for a child who has not previously been a state ward; or any other conditions deemed appropriate by the court. Waiver of jurisdiction to adult criminal court, either by authorization of a

> warrant or by judicial waiver, is not considered a sanction for purposes of this rule."

Recording probation violations based on underlying offense. MCR 3.944(E)(2) provides that a finding of probation violation based upon the juvenile's responsibility for an offense must be recorded as a probation violation only, not a finding of responsibility for the underlying offense. That rule states:

> "If, after hearing, the court finds that a violation of probation occurred on the basis of the juvenile having committed an offense, that finding must be recorded as a violation of probation only and not a finding that the juvenile committed the underlying offense. That finding must not be reported to the State Police or the Secretary of State as an adjudication or a disposition."

13.9 Recording Probation Violation Hearings

MCR 3.925(B) states that "[a] record of all hearings must be made." That subrule also requires that a record of all proceedings on the formal calendar be made and preserved by stenographic recording or by mechanical or electronic recording as provided by statute or MCR 8.108. A plea of admission or no contest, including any agreement with or objection to the plea, must be recorded. "Formal calendar" means all judicial proceedings other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing. MCR 3.903(A)(10). Thus, detention hearings, plea hearings, and violation hearings must be recorded.